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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/914,536	01/28/2002	Lothar Werzinger	30071/37681	7909

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Richard B Hoffman
Marshall Gerstein & Borun
6300 Sears Tower
233 South Wacker Drive
Chicago, IL 60606-6402

EXAMINER

NGUYEN, MICHELLE P ~

ART UNIT	PAPER NUMBER
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2851

DATE MAILED: 10/03/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/914,536

Applicant(s)

WERZINGER ET AL.

Examiner

Michelle Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 January 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 January 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Specification

1. The spacing of the lines of the specification is such as to make reading and entry of amendments difficult. New application papers with lines double spaced on good quality paper are required.

Drawings

2. The drawings are objected to for the following reason(s):
 - (a) The drawings fail to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: PET (see page 3, second full paragraph, line 2).

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Objections

3. Claims 1-5 and 7-9 are objected to for the following reason(s):
 - (a) Claim 1 recites the limitation "the contour" in line 3. There is insufficient antecedent basis for this limitation in the claim.
 - (b) In claim 1, lines 3-4, "the one exposure" should be --one exposure--.
 - (c) Claim 1 recites the limitation "the wall" in line 4. There is insufficient antecedent basis for this limitation in the claim.

- (d) In claim 1, lines 4-5, "the other exposure" should be --another exposure-- because the number of exposures is not limited to two as indicated by the phrase "at least two exposures" in line 3.
- (e) In claim 2, line 1, "and" should be --further comprising--.
- (f) In claim 3, line 1, "and" should be --further comprising--.
- (g) In claim 3, line 2, "memory" should be --a memory--.
- (h) In claim 4, lines 3-4, "an evaluation device (A) for the exposures of the containers" should be --an evaluation device (A) for evaluating the exposures of the containers--.
- (i) Claim 4 recites the limitation "the exposures of the containers" in line 4. There is insufficient antecedent basis for this limitation in the claim.
- (j) Claim 4 recites the limitation "the exposures of the container walls" in line 4. There is insufficient antecedent basis for this limitation in the claim.
- (k) Claim 4 recites the limitation "the exposures of the container profile" in lines 4-5. There is insufficient antecedent basis for this limitation in the claim.
- (l) In claim 4, line 5, "profile" should be --profiles--.
- (m) In claim 4, line 7, "profile" should be --profiles--.
- (n) In claim 4, line 8, "container wall" should be --container walls--.
- (o) In claim 5, line 1, "said control (C2)" should be --said control device (C2)--.
- (p) In claim 7, line 1, "and" should be --further comprising--.
- (q) In claim 8, line 2, "to be" should be deleted.

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(r) Claim 9 recites the limitation "the flash time for the change of the intensity" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Applicant may wish to change "the flash time" to --a flash time--; and "the change" to --a change--.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claim 6, 7 and 9 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claim 6 recites the limitation "at least one LED radiant field (3) which can be activated in the individual containers" in lines 2-3. Applicant's disclosure does not discuss an LED radiant field activated in individual containers. It is noted that applicant's disclosure discusses an LED radiant field activated to produce flashes which are projected onto individual containers (see pages 3, lines 11-14). For purposes of the rejection set forth below, examiner has interpreted the LED radiant field to be an LED radiant field as described in applicant's disclosure.

Claim 7 and 9 include all limitations set forth in claim 6.

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3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-3 and 8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "producing and evaluating by a single CCD camera at least two exposures of the same container" in lines 2-3. Here it is understood that the CCD camera produces and evaluates the exposures. However, it is understood from applicant's disclosure that the CCD camera produces the exposures, and the evaluation device evaluates the exposures (see page 3, second full paragraph, lines 13-7; page 3, third full paragraph, lines 1-3). The discrepancy between claim 1 and the disclosure renders the claim vague and indefinite.

Claims 2, 3 and 8 include all limitations set forth in claim 1.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

6. Claims 1-5 are rejected under 35 U.S.C. 102(a) as being anticipated by U.S.

Patent No. 5,917,602 to Bonewitz et al.

With regard to process claims 1-3, the structure of the device for inspecting transparent containers discussed below with respect to claims 4 and 5 renders the steps set forth in the process claims inherent to the operation of the device.

With regard to claim 4, Bonewitz et al. disclose a device (system 110) for inspecting transparent containers (containers 114), particularly beverage bottles, comprising in combination (see Fig. 1):

- a container-conveying device (conveyer 120) (see Fig. 1);

- at least one source of illumination (lighting assembly 160) (Fig. 2);

- a single CCD camera (camera 158) which is connected with an evaluation device (computer 138) for evaluating exposures of the containers, exposures of the container walls and exposures of the container profiles being produced by means of said CCD camera (see Col. 4, line 65 to Col. 5, line 34, Col. 5, lines 56-9, Figs. 1, 2);

and

- a control device (electronic control 136) for changing the sensitivity of exposure of said CCD camera between a sensitivity of exposure for the container profiles and a sensitivity of exposure for the container walls (see Col. 6, line 65 to Col. 7, line 1, Fig. 1).

With regard to claim 5, Bonewitz et al. teach a device in accordance with claim 4, wherein said control device has at least one electronic control circuit (inherent to the structure of electronic control 136) by means of which the exposure time of the CCD camera can be changed in at least two trigger positions (see Col. 6, line 65 to Col. 7, line 1, Fig. 1).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 6-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bonewitz et al. as applied to claim 4 above, and further in view of U.S. Patent No. 5,095,204 to Novini.

With regard to claim 6, Bonewitz et al. do not teach the source of illumination discussed above with respect to claim 4 to comprise at least one LED radiant field. Instead, Bonewitz et al. teach the source of illumination to comprise a fluorescent light source (see Col. 5, lines 37-9). However, Novini teaches a device for inspecting transparent containers (system 20), the device comprising a source of illumination (illumination source 40) constituted by at least one LED radiant field (matrix 46) (see Col. 8, lines 45-8, Figs. 2, 3, 3B). It would have been obvious to one having ordinary skill in the art at the time the invention was made to substitute for the fluorescent light source of Bonewitz et al. the illumination source of Novini to increase the life expectancy of the source of illumination.

With regard to claim 7, Bonewitz et al. do not teach a flash time adjusting device. However, Novini teaches a flash time adjusting device (vision computer 50) which is coordinated with said LED radiant field discussed above with respect to claim 6 (see Col. 8, lines 48-53). It would have been obvious to one having ordinary skill in the art at

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the time the invention was made to add to the device of Bonewitz et al. the vision computer of Novini to reduce power consumption (via a strobe light as opposed to a continuous light) while still maintaining appropriate image acquisition.

With regard to process claim 8, the structure of the device for inspecting transparent containers discussed above and below with respect to claims 8 and 9, respectively, renders the steps set forth in the process claim inherent to the operation of the device.

With regard to claim 9, Novini teaches the flash time adjusting device discussed above with respect to claim 7 to be an electronic control circuit (inherent) which adjusts the flash time for the change of the intensity of illumination by means of different trigger positions (see Col. 8, lines 59-65).

Conclusion

9. The following art made of record and not relied upon is considered pertinent to applicant's disclosure:

U.S. Patent No. 6,452,156 to Lindner;

U.S. Patent No. 6,031,221 to Furnas;

U.S. Patent No. 5,729,340 to Griesbeck et al.


10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michelle Nguyen whose telephone number is 703-305-2771. The examiner can normally be reached on M-F 8:30am-5:00pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Russ Adams can be reached on 703-308-2847. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-4900.

mpn


RUSSELL ADAMS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800